

MAR 13 2015

SENATE CONCURRENT RESOLUTION

REQUESTING AN AUDIT OF THE ENERGY PERFORMANCE CONTRACTING
PROGRAM.

1 WHEREAS, section 36-41(a), Hawaii Revised Statutes,
2 requires all agencies to evaluate and identify for
3 implementation energy efficiency retrofitting through
4 performance contracting; and

5
6 WHEREAS, agencies that perform energy efficiency
7 retrofitting may continue to receive budget appropriations for
8 energy expenditures at an amount that shall not fall below the
9 pre-retrofitting energy budget, but shall rise in proportion to
10 an increase in the agency's overall budget for the duration of
11 the performance contract or project payment term; and

12
13 WHEREAS, section 36-41(b), Hawaii Revised Statutes, states
14 that any agency may enter into a multi-year energy performance
15 contract for the purpose of undertaking or implementing energy
16 conservation or alternate energy measures in a facility or
17 facilities; and

18
19 WHEREAS, an energy performance contract may include, but is
20 not limited to, financing options such as leasing, lease-
21 purchase, financing agreements, third-party joint ventures,
22 guaranteed-savings plans, energy service contracts, or any
23 combination thereof; and

24
25 WHEREAS, state agencies with energy performance contracts
26 incur long-term obligations that, when performance metrics are
27 met, must be paid, thus diminishing the Legislature's authority
28 and responsibility to appropriate funds for public priorities
29 that arise and change from time to time; and

30
31 WHEREAS, the statutory provision allowing state agencies to
32 basically retain the cost savings from energy performance



1 contracts may be more beneficial to the agencies rather than the
2 taxpayers; and

3
4 WHEREAS, the Legislature therefore finds that the energy
5 performance contracting program requires a review at this time;
6 now, therefore,

7
8 BE IT RESOLVED by the Senate of the Twenty-eighth
9 Legislature of the State of Hawaii, Regular Session of 2015, the
10 House of Representatives concurring, that the Auditor is
11 requested to conduct an audit of the energy performance
12 contracting program to determine whether:

- 13
14 (1) Energy performance contracts actually result in energy
15 consumption savings;
16
17 (2) Energy performance contracts actually result in cost
18 savings to the State;
19
20 (3) Contractually guaranteed performance metrics are
21 reasonably, but not too easily, achievable by the
22 contractor;
23
24 (4) Cost savings should be returned to the state treasury
25 or retained by the state agency benefiting from the
26 contract;
27
28 (5) The repayment obligation to the contractor binds the
29 State too restrictively and whether such long-term
30 obligation is in the best interest of the State;
31
32 (6) Future Legislatures are legally bound to appropriate
33 funds for the annual costs of energy performance
34 contracts or may retain the discretionary authority to
35 deny appropriations for energy performance contract
36 payments;
37
38 (7) The repayment obligation has an impact on the State's
39 bond rating;
40



(8) Energy performance contractors have claimed the renewable energy tax credit and, if so, what has been the impact on the state general fund; and

(9) The calculation, verification, and auditing of energy consumption, operational savings, or other performance contracts should be done by an independent third party rather than the contractor or state agency benefiting from the contract; and

BE IT FURTHER RESOLVED that the Auditor is requested to submit the audit findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 2016; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor and the Auditor.

OFFERED BY:

A handwritten signature in black ink, appearing to be 'Jim', is written over a horizontal line.